

Key messages from Government Guidance during the COVID-19 crisis which relate to the operation of direct payments, including where they are used to employ Personal Assistants

Please note this is a factual summary of what is in the two sets of guidance and is not a policy position

Care Act easements Guidance

- the Coronavirus Act 2020 enables councils to 'ease' some of their obligations under the Care Act 2014 where they are unable to fulfil their Care Act obligations because of local resource and capacity pressures
- any decision to trigger easements by councils should be communicated to all providers, service users and carers, taking the accessibility of communication to service users and carers into account
- the duty on Councils under s4 of the Care Act 2014 to provide accessible advice and information about care and support is **not eased** and remains in force (under the Care Act, information should be provided for people in a variety of formats, not only on council websites)
- councils and providers should work together to agree the circumstances in which, and by how much, current care packages and Direct Payments can be varied without the need for a review; this should offer providers and people who manage their own care the maximum degree of flexibility within their existing care packages to respond to changing circumstances during this unprecedented crisis
- s27(2) and 27(3) of the Care Act which related to revising care plans are **not eased** by the Coronavirus Act so councils **must** involve people in any decision to significantly alter their care and support, including any reductions; councils retain the power to revise care and support plans, and support plans for carers, but they must involve the person, any carer, others if requested or, for someone who lacks capacity, a person who has an interest in their welfare, in any decision to reduce care provision
- The easements Guidance assumes that councils will have mapped all known care packages (including those met through a direct payment) for complexity, risk and need, so that the risks involved are known should care delivery be impacted by COVID-19 from either paid or unpaid care providers, including Personal Assistants; councils can decide their own process for judging this complexity, risk and level of need and may choose to 'RAG-rate' care provision or categorise them as High, Moderate and Low in terms of risks to people, should care arrangements break down
- The easements do not allow councils to block, restrict or withdraw whole packages of care and support but allow them to make individual decisions about who is most in need of care

Direct Payments Guidance

- The use of direct payments to meet people's care and support needs should remain a local priority for councils
- Councils should work with their Local Resilience Forums, community health services, primary care providers and the voluntary and community sector to support people who use direct payments to ensure plans are in place should their care be at risk of breaking down as a result of COVID-19
- Councils should ensure their lists of people in receipt of direct payments is up-to-date and that people have been contacted with clear information and advice about maintaining their care and support, how to get in touch if they think their care is at risk of breaking down and who to contact if they as an employer of a Personal Assistant (PA), are unable to get hold of the recommended Personal Protective Equipment (PPE) to meet their care and support needs safely
- People in receipt of direct payments should be encouraged to have up-to-date contingency plans in place- a template contingency plan is at [Annex A](#) of the guidance
- As part of their planning, councils should take stock of how to maintain sufficient personal assistant support or alternative provision via both commissioned and non-commissioned care providers during the outbreak of COVID-19. The Local Government Association, the Association of Directors of Adult Social

Services and the Care Provider Alliance have published best practice advice on resilience for provider of care and support services [weblink]

- Council commissioners should put plans in place to reduce the administrative burdens associated with direct payments, including ensuring that ongoing and emergency or one-off payments to direct payment holders can be made, and they should also consider longer-term payments (eg for 2 months, rather than one) which will ensure sufficient funds are available to the direct payment holder
- Council commissioners should take a flexible approach to how direct payments are used during the COVID-19 period to ensure that appropriate care is delivered, including considering requests to pay a close family member to provide care if necessary
- Councils should have systems and processes in place to respond to emergencies and if care is time-critical then a package of care and support could be put in place for a time-limited period

NB The [Joint ADASS & LGA Note on Temporary Funding for Adult Social Care providers during the Covid-19 crisis](#) says that to enable local care systems to meet additional need and demand in relation to hospital discharge, councils should increase capacity for care at home by 10% including home care, personal assistants and other community and voluntary services